

REMARKS

Claims 1-28 were pending in this application when the present Office Action was mailed. Claims 1, 3, 4, 7, 10, 12, 13, 16-19, 22, 25, and 26 have been amended to clarify aspects of these claims and to correct the antecedent basis of certain features of these claims. Claims 5, 6, 14, 15, 27, and 28 have been cancelled without prejudice to pursuing these claims in a continuation, divisional, reissue, or other application. Accordingly, claims 1-4, 7-13, and 16-26 remain pending in the application.

In the non-final Office Action mailed August 10, 2005, claims 1-28 were rejected. More specifically, the status of this application in light of the August 10 Office Action is as follows:

(A) Claims 1-28 stand provisionally rejected under the nonstatutory, judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of co-pending U.S. Patent Application No. 10/455,146;

(B) Claims 7 and 19 stand objected to because of minor informalities;

(C) Claims 1, 2, 5-11, 13-15, 17-22, and 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,825,201 to Watanabe et al. ("Watanabe");

(D) Claims 3 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of U.S. Patent No. 6,704,989 to Lutz et al. ("Lutz");

(E) Claims 4 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of a technical paper entitled "Digital Imaging Colorimeter for Fast Measurement of Chromaticity and Luminance Uniformity of Displays" by Jenkins et al. ("Jenkins"); and

(F) Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of Published U.S. Patent Application No. 2004/0179208 to Hsu et al. ("Hsu").

The undersigned attorney wishes to thank the Examiner for engaging in a telephone conference on October 13, 2005 to discuss the present Office Action, the Watanabe reference, and the pending claims. The following remarks summarize and expand upon the results of the October 13 telephone conference, and they also reflect the agreements reached between the undersigned attorney and the Examiner during the telephone conference. For example, the following remarks reflect the Examiner's acknowledgement that proposed amendments to claims 1, 10, and 22 would distinguish the claims over Watanabe. Claims 1, 10, and 22 have been so amended and, accordingly, the Section 103 rejection of claims 1, 10, and 22 should be withdrawn.

A. Response to the Obviousness-Type Double Patenting Rejection

Claims 1-28 stand provisionally rejected under the nonstatutory, judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of co-pending U.S. Patent Application No. 10/455,146. Although the applicants do not concede to the merits of this rejection and contend that the pending claims are patentable over claim 1 of the '146 Application, please find enclosed a Terminal Disclaimer directed to the '146 Application to expedite allowance of the pending claims. Therefore, the obviousness-type double patenting rejection of claims 1-28 should be withdrawn.

B. Response to the Objection to Claims 7 and 19

Claims 7 and 19 stand objected to because of minor informalities in the claims. In accordance with the Examiner's suggestions, the term "recalibrating" in claims 7 and 19 has been changed to "calibrating." Accordingly, the objection to claims 7 and 19 should be withdrawn.

C. Response to the Section 103 Rejection of Claims 1, 2, 5-11, 13-15, 17-22, and 25-28

Claims 1, 2, 5-11, 13-15, 17-22, and 25-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe. Claims 5, 6, 14, 15, 27, and 28 have been cancelled and, accordingly, the rejection of these claims is now moot. As discussed above, claims 1, 10, and 22 have been amended in conformance with the agreement reached between the undersigned attorney and the Examiner during the

October 13 telephone conference and, therefore, the Section 103 rejection of claims 1, 10, and 22 should be withdrawn.

Claims 2 and 7-9 depend from base claim 1, claims 11, 13, and 17-21 depend from base claim 10, and claims 25 and 26 depend from base claim 22. As discussed above, claims 1, 10, and 22 are allowable. Accordingly, claims 2, 7-9, 11, 13, 17-21, 25, and 26 are allowable as depending from claims 1, 10, and 22, and also because of the additional features of these dependent claims. Therefore, the Section 103 rejection of claims 2, 7-9, 11, 13, 17-21, 25, and 26 should be withdrawn.

D. Response to the Section 103 Rejection of Claims 3 and 12

Claims 3 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of Lutz. Claim 3 depends from base claim 1, and claim 12 depends from base claim 10. Lutz fails to cure the deficiencies of Watanabe to support a rejection of claims 1 and 10. Accordingly, dependent claims 3 and 12 are allowable over Watanabe and Lutz for at least the reasons explained above, and also because of the additional features of these dependent claims. Therefore, the Section 103 rejection of claims 3 and 12 should be withdrawn.

E. Response to the Section 103 Rejection of Claims 4 and 16

Claims 4 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of Jenkins. Claim 3 depends from base claim 1, and claim 12 depends from base claim 10. Lutz fails to cure the deficiencies of Watanabe to support a rejection of claims 1 and 10. Accordingly, dependent claims 3 and 12 are allowable over Watanabe and Lutz for at least the reasons explained above, and also because of the additional features of these dependent claims. Therefore, the Section 103 rejection of claims 3 and 12 should be withdrawn.

F. Response to the Section 103 Rejection of Claims 23 and 24

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe in view of Hsu. Claim 3 depends from base claim 1, and claim 12 depends from base claim 10. Lutz fails to cure the deficiencies of Watanabe to support a rejection of claims 1 and 10. Accordingly, dependent claims 3 and 12 are allowable

over Watanabe and Lutz for at least the reasons explained above, and also because of the additional features of these dependent claims. Therefore, the Section 103 rejection of claims 3 and 12 should be withdrawn.

Conclusion

In view of the foregoing, the pending claims comply with 35 U.S.C. § 112 and are patentable over the applied art. The applicant respectfully requests reconsideration of the application and a mailing of a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3982.

Respectfully submitted,

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